

THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

TIMOTHY MCBRIDE,)	
)	
)	
Plaintiff,)	
)	Case No. 1:25-cv-00040
)	
)	COMPLAINT AND
v.)	DEMAND FOR JURY TRIAL
)	
MONSANTO COMPANY,)	
)	
Defendant.)	

INTRODUCTION

Plaintiff TIMOTHY MCBRIDE (“Plaintiff”), brings this action against Defendant Monsanto Company, and alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over Defendant and this action pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship between Plaintiff and Defendant. Specifically, Plaintiff is a citizen of North Carolina, a different state than Defendant’s state of citizenship, and the amount in controversy exceeds \$75,000, exclusive of interest and cost.
2. The Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.
3. This Court has personal jurisdiction over Monsanto Company (“Monsanto”) because Defendant knows or should have known that its Roundup® products are sold throughout the State of North Carolina, and, more specifically, caused Roundup® to be sold to Plaintiff in the State of North Carolina. In addition, Monsanto maintains sufficient contacts within the State of

North Carolina, such that this Court's exercise of personal jurisdiction over it will not offend traditional notions of fair play and substantial justice.

4. Venue is proper within this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the acts and/or omissions giving rise to these claims occurred within this district. Furthermore, Defendant conducts business here and is subject to personal jurisdiction in this district and Defendant sells, markets, and/or distributes Roundup® within the Middle District of North Carolina. Finally, as a corporate entity, Defendant is deemed to reside in any district in which it is subject to personal jurisdiction.

THE PARTIES

Plaintiff

5. Plaintiff Timothy McBride is a citizen of North Carolina and resides in Forsyth County, North Carolina. Plaintiff was exposed to Roundup® in North Carolina from approximately 2000 to 2022. Plaintiff was diagnosed with Follicular Lymphoma and Stage 2 Non-Hodgkin's Lymphoma in Winston-Salem, North Carolina on or about May 19, 2022.

Defendant

6. Defendant, Monsanto Company, is a Delaware corporation with its headquarters and principal place of business in St. Louis, Missouri.

7. At all times relevant to this complaint, Monsanto was the entity that discovered the herbicidal properties of glyphosate and the manufacturer of Roundup®, which contains the active ingredient glyphosate and the surfactant POEA, as well as adjuvants and other "inert" ingredients.

8. Defendant advertises and sell goods, specifically Roundup®, in the State of North Carolina.

9. Defendant transacted and conducted business within the State of North Carolina that relates to the allegations in this Complaint.

10. Defendant derived substantial revenue from goods and products used in the State of North Carolina.

11. Defendant expected or should have expected its acts to have consequences within the State of North Carolina, and derived substantial revenue from interstate commerce.

12. Defendant engaged in the business of designing, developing, manufacturing, testing, packaging, marketing, distributing, labeling, and/or selling Roundup®.

13. Defendant is authorized to do business in North Carolina and derives substantial income from doing business in this state.

14. Upon information and belief, Defendant purposefully availed itself of the privilege of conducting activities with the State of North Carolina, thus invoking the benefits and protections of its laws.

15. Upon information and belief, Defendant designed, sold, advertised, manufactured and/or distributed Roundup®, with full knowledge of its dangerous and defective nature.

FACTUAL ALLEGATIONS

16. At all relevant times, Defendant was in the business of, and did, design, research, manufacture, test, advertise, promote, market, sell, distribute, and/or have acquired and are responsible for Defendant who has designed, researched, manufactured, tested, advertised, promoted, marketed, sold, and distributed the commercial herbicide Roundup®.

17. Monsanto is a multinational agricultural biotechnology corporation based in St. Louis, Missouri. It is the world's leading producer of glyphosate.

18. Defendant discovered the herbicidal properties of glyphosate during the 1970's and subsequently began to design, research, manufacture, sell and distribute glyphosate based "Roundup®" as a broad-spectrum herbicide.

19. Glyphosate is the active ingredient in Roundup®.

20. Glyphosate is a broad-spectrum herbicide used to kill weeds and grasses known to compete with commercial crops grown around the globe.

21. Glyphosate is a “non-selective” herbicide, meaning it kills indiscriminately based only on whether a given organism produces a specific enzyme, 5-enolpyruvylshikimic acid-3-phosphate synthase, known as EPSP synthase.

22. Sprayed as a liquid, plants absorb glyphosate directly through their leaves, stems, and roots, and detectable quantities accumulate in the plant tissues.

23. Plants treated with glyphosate translocate the systemic herbicide to their roots, shoot regions, and fruit, where it interferes with the plant’s ability to form aromatic amino acids necessary for protein synthesis. Treated plants generally die within two to three days. Because plants absorb glyphosate, washing or peeling produce or grain does not entirely remove the chemical.

24. Each year, approximately 250 million pounds of glyphosate are sprayed on crops, commercial nurseries, suburban lawns, parks, and golf courses. This increase in use has been driven largely by the proliferation of genetically engineered crops, crops specifically tailored to resist the activity of glyphosate.

25. Defendant is intimately involved in the development, design, manufacture, marketing, sale, and/or distribution of genetically modified (“GMO”) crops, many of which are marketed as being resistant to Roundup[®] i.e., “Roundup Ready[®].” As of 2009, Defendant was the world’s leading producer of seeds designed to be Roundup Ready[®]. In 2010, an estimated 70% of corn and cotton, and 90% of soybean fields in the United States contained Roundup Ready[®] seeds.

26. In addition to the active ingredient glyphosate, Roundup[®] formulations also contain adjuvants and other chemicals, such as the surfactant POEA, which are considered “inert” and therefore protected as “trade secrets” in manufacturing. Growing evidence suggests that these

adjuvants and additional components of Roundup® formulations are not, in fact, inert and are toxic in their own right.

27. For nearly 40 years, farmers across the globe have used Roundup®, unaware of its carcinogenic properties. That is because when Monsanto first introduced Roundup®, it touted glyphosate as a technological breakthrough: it could kill almost every weed without causing harm either to people or to the environment. Of course, history has shown that not to be true. According to the WHO, the main chemical ingredient of Roundup®—glyphosate—is a probable cause of cancer. Those most at risk are farm workers and other individuals with workplace exposure to Roundup®, such as garden center workers, nursery workers, and landscapers. Agricultural workers are, once again, victims of corporate greed. Monsanto assured the public that Roundup® was harmless. In order to prove this, Monsanto has championed falsified data and has attacked legitimate studies that revealed Roundup®’s dangers. Monsanto has led a prolonged campaign of misinformation to convince government agencies, farmers and the general population that Roundup® is safe.

REGISTRATION OF HERBICIDES UNDER FEDERAL LAW

28. The manufacture, formulation, and distribution of herbicides, such as Roundup®, are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136 *et seq.* FIFRA requires that all pesticides be registered with the Environmental Protection Agency (“EPA”) prior to their distribution, sale, or use, except as described by FIFRA 7 U.S.C. 136a(a).

29. The EPA requires as part of the registration process, among other requirements, a variety of tests to evaluate the potential for exposure to pesticides, toxicity to people and other potential non-target organisms, and other adverse effects on the environment. Registration by the EPA, however, is not an assurance or finding of safety. The determination the EPA makes in

registering or re-registering a product is not that the product is “safe,” but rather that use of the product in accordance with its label directions “will not generally cause unreasonable adverse effects on the environment.” 7 U.S.C. § 136(a)(c)(5)(D).

30. FIFRA defines “unreasonable adverse effects on the environment” to mean “any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.” 7 U.S.C. § 136(bb). FIFRA thus requires the EPA to make a risk/benefit analysis in determining whether a registration should be granted or allowed to continue to be sold in commerce.

31. The EPA and the State of North Carolina registered Roundup[®] for distribution, sale, and manufacture in the United States and the State of North Carolina.

32. FIFRA generally requires that the registrant, Monsanto, conduct health and safety testing of pesticide products. The data produced by the registrant must be submitted to the EPA for review and evaluation. The government is not required, nor is it able, to perform the product tests that are required of the manufacturer.

33. The evaluation of each pesticide product distributed, sold, or manufactured is completed at the time the product is initially registered. The data necessary for registration of a pesticide has changed over time. The EPA is now in the process of re-evaluating all pesticide products through a Congressionally mandated process called “re-registration.” 7 U.S.C. § 136a-1. In order to reevaluate these pesticides, the EPA demands the completion of additional tests and the submission of data for the EPA’s review and evaluation.

34. In the case of glyphosate and therefore Roundup[®], the EPA intended to release its preliminary risk assessment – in relation to the registration process – no later than July 2015. The EPA completed its review of glyphosate in early 2015 but delayed releasing the assessment pending further review in light of the World Health Organization’s related findings. Ultimately,

the EPA released the report, publicly, on September 12, 2016.

SCIENTIFIC FRAUD UNDERLYING THE MARKETING AND SALE OF

GLYPHOSATE/ ROUNDUP®

35. Based on early carcinogenicity studies showing that glyphosate caused cancer in mice and rats, the EPA originally classified glyphosate as *possibly carcinogenic to humans* (Group C) in 1985. After pressure from Monsanto, including self-commissioned review studies it provided to the EPA, the EPA changed its classification to *evidence of non-carcinogenicity in humans* (Group E) in 1991. However, the EPA made clear that the 1991 designation did not mean that glyphosate does not cause cancer: “It should be emphasized, however, that designation of an agent in Group E is based on the available evidence at the time of evaluation and should not be interpreted as a definitive conclusion that the agent will not be a carcinogen under any circumstances.”¹

36. On two occasions, the EPA found that the laboratories hired by Monsanto to test the toxicity of its Roundup® products for registration purposes committed fraud.

37. In the first instance, Monsanto, in seeking initial registration of Roundup® by the EPA, hired Industrial Bio-Test Laboratories (“IBT”) to perform and evaluate pesticide toxicology studies relating to Roundup®.² IBT performed about 30 tests on glyphosate and glyphosate-containing products, including nine of the 15 residue studies needed to register Roundup®.

38. In 1976, the United States Food and Drug Administration (“FDA”) performed an inspection of IBT that revealed discrepancies between the raw data and the final report relating to the toxicological impacts of glyphosate. The EPA subsequently audited IBT; it too found the toxicology studies conducted for the Roundup® herbicide to be invalid.³ An EPA reviewer stated,

¹ U.S. Env'tl. Prot. Agency, *Memorandum, Subject: SECOND Peer Review of Glyphosate 1* (1991), available at http://www.epa.gov/pesticides/chem_search/cleared_reviews/csr_PC-103601_30-Oct-91_265.pdf.

² Monsanto, *Background, Testing Fraud: IBT and Craven Laboratories* (Sep. 2, 2015), http://www.monsanto.com/products/documents/glyphosate-background-materials/ibt_craven_bkg.pdf.

³ U.S. Env'tl. Prot. Agency, *Summary of the IBT Review Program Office of Pesticide Programs* (1983), available at <http://nepis.epa.gov/Exe/ZyNET.exe/91014ULV.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1981+Thru+>

after finding “routine falsification of data” at IBT, that it was “hard to believe the scientific integrity of the studies when they said they took specimens of the uterus from male rabbits.”⁴

39. Three top IBT executives were convicted of fraud in 1983.

40. In the second incident of data falsification, Monsanto hired Craven Laboratories in 1991 to perform pesticide and herbicide studies, including Roundup[®]. In that same year, the owner of Craven Laboratories and three of its employees were indicted and convicted of fraudulent laboratory practices in the testing of pesticides and herbicides.⁵

41. Despite the falsity of the tests that underlie its registration, within a few years of its launch, Monsanto was marketing Roundup[®] in 115 countries.

MONSANTO’S FALSE REPRESENTATIONS REGARDING THE SAFETY OF

ROUNDUP[®]

42. In 1996, the New York Attorney General (“NYAG”) filed a lawsuit against Monsanto based on its false and misleading advertising of Roundup[®] products. Specifically, the lawsuit challenged Monsanto’s general representations that its spray-on glyphosate-based herbicides, including Roundup[®], were “**safer than table salt**” and “**practically non-toxic**” to mammals, birds, and fish. Among the representations the NYAG found deceptive and misleading about the human and environmental safety of Roundup[®] are the following:

- a.) Remember that environmentally friendly Roundup[®] herbicide is biodegradable. It won't build up in the soil so you can use

[1985&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C81thru85%5CTxt%5C00000022%5C91014ULV.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=p%7Cf&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL.](#)

⁴ Marie-Monique Robin, *The World According to Monsanto: Pollution, Corruption and the Control of the World’s Food Supply* (2011) (citing U.S. Env’tl. Prot. Agency, *Data Validation, Memo from K. Locke, Toxicology Branch, to R. Taylor, Registration Branch. Washington, D.C. (August 9, 1978)*).

⁵ Monsanto, *Backgrounder, Testing Fraud: IBT and Craven Laboratories, supra.*

Roundup[®] with confidence along customers' driveways, sidewalks and fences.

- b.) And remember that Roundup[®] is biodegradable and won't build up in the soil. That will give you the environmental confidence you need to use Roundup[®] everywhere you've got a weed, brush, edging or trimming problem.
- c.) Roundup[®] biodegrades into naturally occurring elements.
- d.) Remember that versatile Roundup[®] herbicide stays where you put it. That means there's no washing or leaching to harm customers' shrubs or other desirable vegetation.
- e.) This non-residual herbicide will not wash or leach in the soil. It ... stays where you apply it.
- f.) You can apply Accord with “confidence because it will stay where you put it” it bonds tightly to soil particles, preventing leaching. Then, soon after application, soil microorganisms biodegrade Accord into natural products.
- g.) Glyphosate is less toxic to rats than table salt following acute oral ingestion.
- h.) Glyphosate's safety margin is much greater than required. It has over a 1,000-fold safety margin in food and over a 700-fold safety margin for workers who manufacture it or use it.
- i.) You can feel good about using herbicides by Monsanto. They carry a toxicity category rating of 'practically non-toxic' as it pertains to mammals, birds and fish.

j.) "Roundup[®] can be used where kids and pets will play and breaks down into natural material." This ad depicts a person with his head in the ground and a pet dog standing in an area which has been treated with Roundup[®].⁶

43. On November 19, 1996, Monsanto entered into an Assurance of Discontinuance with NYAG, in which Monsanto agreed, among other things, "to cease and desist from publishing or broadcasting any advertisements [in New York] that represent, directly or by implication" that:

- a.) its glyphosate-containing pesticide products or any component thereof are safe, non-toxic, harmless or free from risk.
- b.) its glyphosate-containing pesticide products or any component thereof manufactured, formulated, distributed or sold by Monsanto are biodegradable.
- c.) its glyphosate-containing pesticide products or any component thereof stay where they are applied under all circumstances and will not move through the environment by any means.
- d.) its glyphosate-containing pesticide products or any component thereof are "good" for the environment or are "known for their environmental characteristics."
- e.) glyphosate-containing pesticide products or any component thereof are safer or less toxic than common consumer products other than herbicides.
- f.) its glyphosate-containing products or any component thereof

⁶ Attorney General of the State of New York, In the Matter of Monsanto Company, Assurance of Discontinuance Pursuant to Executive Law § 63(15) (Nov. 1996).

might be classified as "practically non-toxic."

44. Monsanto did not alter its advertising in the same manner in any state other than New York, and on information and belief still has not done so today.

45. In 2009, France's highest court ruled that Monsanto had not told the truth about the safety of Roundup[®]. The French court affirmed an earlier judgment that Monsanto had falsely advertised its herbicide Roundup[®] as "biodegradable" and that it "left the soil clean."⁷

THE IMPORTANCE OF ROUNDUP[®] TO MONSANTO'S MARKET DOMINANCE

PROFITS

46. The success of Roundup[®] was key to Monsanto's continued reputation and dominance in the marketplace. Largely due to the success of Roundup[®] sales, Monsanto's agriculture division was outperforming its chemicals division's operating income, and that gap increased yearly. But with its patent for glyphosate expiring in the United States in the year 2000, Monsanto needed a strategy to maintain its Roundup[®] market dominance and to ward off impending competition.

47. In response, Monsanto began the development and sale of genetically engineered Roundup Ready[®] seeds in 1996. Since Roundup Ready[®] crops are resistant to glyphosate, farmers can spray Roundup[®] onto their fields during the growing season without harming the crop. This allowed Monsanto to expand its market for Roundup[®] even further; by 2000, Monsanto's biotechnology seeds were planted on more than 80 million acres worldwide and nearly 70% of American soybeans were planted from Roundup Ready[®] seeds. It also secured Monsanto's dominant share of the glyphosate/Roundup[®] market through a marketing strategy that coupled proprietary Roundup Ready[®] seeds with continued sales of its Roundup[®] herbicide.

⁷ *Monsanto Guilty in 'False Ad' Row*, BBC, Oct. 15, 2009, available at <http://news.bbc.co.uk/2/hi/europe/8308903.stm>.

48. Through a three-pronged strategy of increasing production, decreasing prices, and by coupling with Roundup Ready® seeds, Roundup® became Monsanto's most profitable product. In 2000, Roundup® accounted for almost \$2.8 billion in sales, outselling other herbicides by a margin of five to one, and accounting for close to half of Monsanto's revenue.⁸ Today, glyphosate remains one of the world's largest herbicides by sales volume.

EVIDENCE OF CARCINOGENICITY IN ROUNDUP®

49. As early as the 1980's, Monsanto was aware of glyphosate's carcinogenic properties.

50. On March 4, 1985, a group of the Environmental Protection Agency's ("EPA") Toxicology Branch published a memorandum classifying glyphosate as a Category C oncogene.⁹ Category C oncogenes are possible human carcinogens with limited evidence of carcinogenicity.

51. In 1986, the EPA issued a Registration Standard for glyphosate (NTIS PB87-103214). The Registration standard required additional phytotoxicity, environmental fate, toxicology, product chemistry, and residue chemistry studies. All of the data required was submitted and reviewed and/or waived.¹⁰

52. In October 1991, the EPA published a Memorandum entitled "Second Peer Review of Glyphosate." The memorandum changed glyphosate's classification to Group E (evidence of non-carcinogenicity for humans). Two peer review committee members did not concur with the conclusions of the committee and one member refused to sign.¹¹

53. In addition to the toxicity of the active molecule, many studies support the

⁸ David Barboza, *The Power of Roundup; A Weed Killer Is A Block for Monsanto to Build On*, N.Y. TIMES, Aug. 2, 2001, available at <http://www.nytimes.com/2001/08/02/business/the-power-of-roundup-a-weed-killer-is-a-block-for-monsanto-to-build-on.html>.

⁹ Consensus Review of Glyphosate, Casewell No. 661A. March 4, 1985. United States Environmental Protection Agency.

¹⁰ <http://www.epa.gov/oppsrrd1/reregistration/REDs/factsheets/0178fact.pdf>

¹¹ Second Peer Review of Glyphosate, CAS No. 1071-83-6. October 30, 1991. United States Environmental Protection Agency.

hypothesis that glyphosate formulations found in Defendant's Roundup[®] products are more dangerous and toxic than glyphosate alone. As early as 1991, evidence existed demonstrating that glyphosate formulations were significantly more toxic than glyphosate alone.¹²

54. In 2002, a study by Julie Marc, entitled "Pesticide Roundup[®] Provokes Cell Division Dysfunction at the Level of CDK1/Cyclin B Activation," revealed that Roundup[®] causes delays in the cell cycles of sea urchins but that the same concentrations of glyphosate alone were ineffective and did not alter cell cycles.¹³

55. A 2004 study by Marc and others, entitled "Glyphosate-based pesticides affect cell cycle regulation," demonstrated a molecular link between glyphosate-based products and cell cycle dysregulation. The researchers noted that "cell-cycle dysregulation is a hallmark of tumor cells and human cancer. Failure in the cell-cycle checkpoints leads genomic instability and subsequent development of cancers from the initial affected cell." Further, "[s]ince cell cycle disorders such as cancer result from dysfunction of a unique cell, it was of interest to evaluate the threshold dose of glyphosate affecting the cells."¹⁴

56. In 2005, a study by Francisco Peixoto, entitled "Comparative effects of the Roundup[®] and glyphosate on mitochondrial oxidative phosphorylation," demonstrated that Roundup[®]'s effects on rat liver mitochondria are far more toxic than equal concentrations of glyphosate alone. The Peixoto study further suggested that the harmful effects of Roundup[®] on mitochondrial bioenergetics could not be exclusively attributed to glyphosate but could be the result of other chemicals, such as the surfactant POEA, or in the alternative, due to a potential

¹² Martinez, T.T. and K. Brown, *Oral and pulmonary toxicology of the surfactant used in Roundup herbicide*, PROC. WEST. PHARMACOL. SOC. 34:43-46 (1991).

¹³ Julie Marc, et al., *Pesticide Roundup Provokes Cell Division Dysfunction at the Level of CDK1/Cyclin B Activation*, 15 CHEM. RES. TOXICOL. 326-331 (2002), available at <http://pubs.acs.org/doi/full/10.1021/tx015543g>.

¹⁴ Julie Marc, et al., *Glyphosate-based pesticides affect cell cycle regulation*, 96 BIOLOGY OF THE CELL 245, 245-249 (2004), available at <http://onlinelibrary.wiley.com/doi/10.1016/j.biolcel.2003.11.010/epdf>.

synergic effect between glyphosate and other ingredients in the Roundup[®] formulation.¹⁵

57. In 2009, Nora Benachour and Gilles-Eric Seralini published a study examining the effects of Roundup[®] and glyphosate on human umbilical, embryonic, and placental cells. The study tested dilution levels of Roundup[®] and glyphosate that were far below agricultural recommendations, corresponding with low levels of residue in food. The researchers ultimately concluded that supposed “inert” ingredients, and possibly POEA, alter human cell permeability and amplify toxicity of glyphosate alone. The researchers further suggested that assessments of glyphosate toxicity should account for the presence of adjuvants or additional chemicals used in the formulation of the complete pesticide. The study confirmed that the adjuvants present in Roundup[®] are not, in fact, inert and that Roundup[®] is potentially far more toxic than its active ingredient glyphosate alone.¹⁶

58. The results of these studies were confirmed in recently published peer-reviewed studies and were at all times available and/or known to Defendant.

59. Defendant knew or should have known that Roundup[®] is more toxic than glyphosate alone and that safety studies on Roundup[®], Roundup[®]'s adjuvants and “inert” ingredients, and/or the surfactant POEA were necessary to protect Plaintiff from Roundup[®].

60. Defendant knew or should have known that tests limited to Roundup[®]'s active ingredient glyphosate were insufficient to prove the safety of Roundup[®].

61. Defendant failed to appropriately and adequately test Roundup[®], Roundup[®]'s

¹⁵ Francisco Peixoto, *Comparative effects of the Roundup and glyphosate on mitochondrial oxidative phosphorylation*, 61 CHEMOSPHERE 1115, 1122 (2005), available at [https://www.researchgate.net/publication/7504567_Comparative_effects_of_the_Roundup_and_glyphosate_o](https://www.researchgate.net/publication/7504567_Comparative_effects_of_the_Roundup_and_glyphosate_on_mitochondrial_oxidative_phosphorylation)
n_mitochondrial_oxidative_phosphorylation.

¹⁶ Nora Benachour, et al., *Glyphosate Formulations Induce Apoptosis and Necrosis in Human Umbilical, Embryonic, and Placental Cells*, 22 CHEM. RES. TOXICOL. 97-105 (2008), available at <http://big.assets.huffingtonpost.com/france.pdf>.

adjuvants and “inert” ingredients, and/or the surfactant POEA to protect Plaintiff from Roundup®.

62. Despite its knowledge that Roundup® was considerably more dangerous than glyphosate alone, Defendant continued to promote Roundup® as safe.

IARC CLASSIFICATION OF GLYPHOSATE

63. The International Agency for Research on Cancer (“IARC”) is the specialized intergovernmental cancer agency the World Health Organization (“WHO”) of the United Nations tasked with conducting and coordinating research into the causes of cancer.

64. In April 2014, an IARC Advisory Group met to recommend priorities for IARC Monographs during 2015–2019.

65. IARC set glyphosate for review in 2015-2016. In preparing its monograph, a Working Group of 17 experts from 11 countries met at IARC from March 3-10, 2015 to assess the carcinogenicity of certain herbicides, including glyphosate.

66. One year before the Monograph meeting, the meeting is announced and there is a call both for data and for experts. Eight months before the Monograph meeting, the Working Group membership is selected, and the sections of the Monograph are developed by the Working Group members. One month prior to the Monograph meeting, the call for data is closed and the various draft sections are distributed among Working Group members for review and comment. Finally, at the Monograph meeting, the Working Group finalizes review of all literature, evaluates the evidence in each category, and completes the overall evaluation. Within two weeks after the Monograph meeting, the summary of the Working Group findings is published in The Lancet Oncology, and within a year after the meeting, the finalized Monograph is published.

67. In assessing an agent, the IARC Working Group reviews the following information: (a) human, experimental, and mechanistic data; (b) all pertinent epidemiological studies and cancer bioassays; and (c) representative mechanistic data. The studies must be publicly available and have

sufficient detail for meaningful review, and reviewers cannot be associated with the underlying study.

68. The IARC's full Monograph was published on July 29, 2015, and established glyphosate as a class 2A probable carcinogen to humans. According to the authors glyphosate demonstrated sufficient mechanistic evidence (genotoxicity and oxidative stress) to warrant a 2A classification based on evidence of carcinogenicity in humans and animals.

69. The IARC Working Group found an increased risk between exposure to glyphosate and non-Hodgkin's lymphoma ("NHL") and several subtypes of NHL, and the increased risk continued after adjustment for other pesticides.

70. Exposure pathways are identified as air (especially during spraying), water, and food. Community exposure to glyphosate is widespread and found in soil, air, surface water, and groundwater, as well as in food.

71. The IARC Working Group also noted that glyphosate has been detected in the urine of agricultural workers, indicating absorption. Soil microbes degrade glyphosate to aminomethylphosphonic acid (AMPA). Blood AMPA detection after exposure suggests intestinal microbial metabolism in humans.

72. The IARC Working Group further found that glyphosate and glyphosate formulations induced DNA and chromosomal damage in mammals, and in human and animal cells in utero.

73. In male CD-1 mice, glyphosate induced a positive trend in the incidence of a rare tumor: renal tubule carcinoma. A second study reported a positive trend for hemangiosarcoma in male mice. Glyphosate increased pancreatic islet-cell adenoma in male rats in two studies. A glyphosate formulation promoted skin tumors in an initiation promotion study in mice.

74. The IARC Working Group also noted genotoxic, hormonal, and enzymatic effects

in mammals exposed to glyphosate.¹⁷ Essentially, glyphosate inhibits the biosynthesis of aromatic amino acids, which leads to several metabolic disturbances, including the inhibition of protein and secondary product biosynthesis and general metabolic disruption.

75. The IARC Working Group also reviewed an Agricultural Health Study, consisting of a prospective cohort of 57,311 licensed pesticide applicators in Iowa and North Carolina.¹⁸ While this study differed from others in that it was based on a self-administered questionnaire, the results support an association between glyphosate exposure and multiple myeloma, hairy cell leukemia (HCL), and chronic lymphocytic leukemia (CLL), in addition to several other cancers.

EARLIER EVIDENCE OF GLYPHOSATE'S DANGER

76. Despite the new classification by the IARC, Defendant has had ample evidence of glyphosate and Roundup[®]'s genotoxic properties for decades.

77. Genotoxicity refers to chemical agents that are capable of damaging the DNA within a cell through genetic mutations, which is a process that is believed to lead to cancer.

78. In 1997, Chris Clements published "Genotoxicity of select herbicides in *Rana catesbeiana* tadpoles using the alkaline single-cell gel DNA electrophoresis (comet) assay."

79. The study found that tadpoles exposed to Roundup[®] showed significant DNA damage when compared with unexposed control animals.

80. Both human and animal studies have shown that glyphosate and glyphosate-based formulations such as Roundup[®] can induce oxidative stress.

81. Oxidative stress and associated chronic inflammation are believed to be involved in carcinogenesis.

82. The IARC Monograph notes that "[s]trong evidence exists that glyphosate, AMPA

¹⁷ Guyton et al., *Carcinogenicity of Tetrachlorvinphos, Parathion, Malathion, Diazinon & Glyphosate*, *supra* at 77.

¹⁸ Anneclaire J. De Roos et al., *Cancer Incidence Among Glyphosate-Exposed Pesticide Applicators in the Agricultural Health Study*, 113 *Env't'l Health Perspectives* 49–54 (2005), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1253709/pdf/ehp0113-000049.pdf>.

and glyphosate-based formulations can induce oxidative stress.”

83. In 2006 César Paz-y-Miño published a study examining DNA damage in human subjects exposed to glyphosate.

84. The study produced evidence of chromosomal damage in blood cells showing significantly greater damage after exposure to glyphosate than before in the same individuals, suggesting that the glyphosate formulation used during aerial spraying had a genotoxic effect on exposed individuals.

85. The IARC Monograph reflects the volume of evidence of glyphosate pesticides’ genotoxicity noting “[t]he evidence for genotoxicity caused by glyphosate-based formulations is strong.”

86. Despite knowledge to the contrary, Defendant maintains that there is no evidence that Roundup[®] is genotoxic, that regulatory authorities and independent experts are in agreement that Roundup[®] is not genotoxic, and that there is no evidence that Roundup[®] is genotoxic.

87. In addition to glyphosate and Roundup[®]’s genotoxic properties, Defendant has long been aware of glyphosate’s carcinogenic properties.

88. Glyphosate and Roundup[®] in particular have long been associated with carcinogenicity and the development of numerous forms of cancer, including, but not limited to, non-Hodgkin’s lymphoma, Hodgkin’s lymphoma, multiple myeloma, and soft tissue sarcoma.

89. Defendant has known of this association since the early to mid-1980s and numerous human and animal studies have evidenced the carcinogenicity of glyphosate and/or Roundup[®].

90. In 1985, the EPA studied the effects of glyphosate in mice finding a dose related response in male mice linked to renal tubal adenomas, a rare tumor. The study concluded the glyphosate was oncogenic.

91. In 2000, Lennart Hardell and Mikael Eriksson published the results of two case-

controlled studies on pesticides as a risk factor for NHL and hairy cell leukemia.

92. The study concluded that glyphosate had the most significant relationship to NHL among all herbicide studies with an increased odds ratio of 3.11.

93. In 2003, AJ De Roos published a study examining the pooled data of mid-western farmers, examining pesticides and herbicides as risk factors for NHL.

94. The study, which controlled for potential confounders, found a relationship between increased NHL incidence and glyphosate.

95. In 2008, Mikael Eriksson published a study a population-based case-control study of exposure to various pesticides as a risk factor for NHL.

96. This strengthened previous associations between glyphosate and NHL.

97. In spite of this knowledge, Defendant continued to issue broad and sweeping statements suggesting that Roundup[®] was, and is, safer than ordinary household items such as table salt, despite a lack of scientific support for the accuracy and validity of these statements and, in fact, voluminous evidence to the contrary.

98. Upon information and belief, these statements and representations have been made with the intent of inducing Plaintiff, the agricultural community, and the public at large to purchase, and increase the use of, Defendant's Roundup[®] for Defendant's pecuniary gain, and in fact did induce Plaintiff to use Roundup[®].

99. Defendant made these statements with complete disregard and reckless indifference to the safety of Plaintiff and the general public.

100. Notwithstanding Defendant's representations, scientific evidence has established a clear association between glyphosate and genotoxicity, inflammation, and an increased risk of many cancers, including, but not limited to, NHL, Multiple Myeloma, and soft tissue sarcoma.

101. Defendant knew or should have known that glyphosate is associated with an

increased risk of developing cancer, including, but not limited to, NHL, Multiple Myeloma, and soft tissue sarcomas.

102. Defendant failed to appropriately and adequately inform and warn Plaintiff of the serious and dangerous risks associated with the use of and exposure to glyphosate and/or Roundup[®], including, but not limited to, the risk of developing NHL, as well as other severe and personal injuries, which are permanent and/or long-lasting in nature, cause significant physical pain and mental anguish, diminished enjoyment of life, and the need for medical treatment, monitoring and/or medications.

103. Despite the IARC's classification of glyphosate as a class 2A probable carcinogen, Defendant continues to maintain that glyphosate and/or Roundup[®] is safe, non-carcinogenic, non-genotoxic, and falsely warrant to users and the general public that independent experts and regulatory agencies agree that there is no evidence of carcinogenicity or genotoxicity in glyphosate and Roundup[®].

104. Defendant has claimed and continues to claim that Roundup[®] is safe, non-carcinogenic, and non-genotoxic.

105. Monsanto claims on its website that "[r]egulatory authorities and independent experts around the world have reviewed numerous long-term/carcinogenicity and genotoxicity studies and agree that there is no evidence that glyphosate, the active ingredient in Roundup[®] brand herbicides and other glyphosate-based herbicides, causes cancer, even at very high doses, and that it is not genotoxic".¹⁹

106. Ironically, the primary source for this statement is a 1986 report by the WHO, the same organization that now considers glyphosate to be a probable carcinogen.

¹⁹ Backgrounder - Glyphosate: No Evidence of Carcinogenicity. Updated November 2014. (downloaded October 9, 2015).

107. Glyphosate, and Defendant's Roundup[®] products in particular, have long been associated with serious side effects and many regulatory agencies around the globe have banned or are currently banning the use of glyphosate herbicide products.

108. Defendant's statements proclaiming the safety of Roundup[®] and disregarding its dangers misled Plaintiff.

109. Despite Defendant's knowledge that Roundup[®] was associated with an elevated risk of developing cancer, Defendant's promotional campaigns focused on Roundup[®]'s purported "safety profile."

110. Defendant's failure to adequately warn Plaintiff resulted in (1) Plaintiff using and being exposed to glyphosate instead of using another acceptable and safe method of controlling unwanted weeds and pests; and (2) scientists and physicians failing to warn and instruct consumers about the risk of cancer, including NHL, and other injuries associated with Roundup[®].

111. Defendant failed to seek modification of the labeling of Roundup[®] to include relevant information regarding the risks and dangers associated with Roundup[®] exposure.

112. The failure of Defendant to appropriately warn and inform the EPA has resulted in inadequate warnings in safety information presented directly to users and consumers.

113. The failure of Defendant to appropriately warn and inform the EPA has resulted in the absence of warning or caution statements that are adequate to protect health and the environment.

114. The failure of Defendant to appropriately warn and inform the EPA has resulted in the directions for use that are not adequate to protect health and the environment.

115. By reason of the foregoing acts and omissions, Plaintiff seeks compensatory damages as a result of Plaintiff's use of, and exposure to, Roundup[®] which caused or was a substantial contributing factor in causing Plaintiff to suffer from cancer, specifically NHL, and

Plaintiff suffered severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life. Sadly, Plaintiff's injuries ultimately led to her death.

116. By reason of the foregoing, Plaintiff was severely and permanently injured.

117. By reason of the foregoing acts and omissions, Plaintiff endured and suffered emotional and mental anguish, medical expenses, and other economic and non-economic damages, as a result of the actions and inactions of the Defendant.

OTHER EARLIER FINDINGS ABOUT GLYPHOSATE'S DANGERS TO

HUMAN HEALTH

118. The EPA has a technical fact sheet, as part of its Drinking Water and Health National Primary Drinking Water Regulations publication, relating to glyphosate. This technical fact sheet predates IARC's March 20, 2015, evaluation. The fact sheet describes the release patterns for glyphosate as follows:

Release Patterns

Glyphosate is released to the environment in its use as an herbicide for controlling woody and herbaceous weeds on forestry, right-of-way, cropped and non-cropped sites. These sites may be around water and in wetlands.

It may also be released to the environment during its manufacture, formulation, transport, storage, disposal and cleanup, and from spills. Since glyphosate is not a listed chemical in the Toxics Release Inventory, data on releases during its manufacture and handling are not available.

Occupational workers and home gardeners may be exposed to glyphosate by inhalation and dermal contact during spraying, mixing, and cleanup. They may also be exposed by touching soil and plants to which glyphosate was applied. Occupational exposure may also occur during glyphosate's manufacture, transport storage, and disposal.²⁰

²⁰ U.S. Env'tl. Prot. Agency, *Technical Factsheet on: Glyphosate*, *supra*.
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119. In 1995, the Northwest Coalition for Alternatives to Pesticides reported that in California, the state with the most comprehensive program for reporting of pesticide- caused illness, glyphosate was the third most commonly-reported cause of pesticide illness among agricultural workers.²¹

STATEMENT OF CONCERN REGARDING GLYPHOSATE-BASED
HERBICIDES

120. On February 17, 2016, a consensus statement published in the journal *Environmental Health*, entitled “Concerns over use of glyphosate-based herbicides and risks associated with exposures: a consensus statement,” assessed the safety of glyphosate- based herbicides (GBHs).²²The paper’s “focus is on the unanticipated effects arising from the worldwide increase in use of GBHs, coupled with recent discoveries about the toxicity and human health risks stemming from use of GBHs.”²³ The researchers drew seven factual conclusions about GBHs:

1. GBHs are the most heavily applied herbicide in the world and usage continues to rise;
2. Worldwide, GBHs often contaminate drinking water sources, precipitation, and air, especially in agricultural regions;
3. The half-life of glyphosate in water and soil is longer than previously recognized;
4. Glyphosate and its metabolites are widely present in the global soybean supply;
5. Human exposures to GBHs are rising;

²¹ Caroline Cox, *Glyphosate, Part 2: Human Exposure and Ecological Effects*, 15 J. PESTICIDE REFORM 4 (1995); W.S. Peas et al., *Preventing pesticide-related illness in California agriculture: Strategies and priorities. Environmental Health Policy Program Report*, Univ. of Cal. School of Public Health, Calif. Policy Seminar (1993).

²² John P. Myers, et al, *Concerns over use of glyphosate-based herbicides and risks associated with exposures: a consensus statement*, Environmental Health (2016), available at <http://ehjournal.biomedcentral.com/articles/10.1186/s12940-016-0117-0>.

²³ *Id.*

6. Glyphosate is now authoritatively classified as a probable carcinogen; and
7. Regulatory estimates of tolerable daily intakes for glyphosate in the United States and European Union are based on outdated science.²⁴

121. The researchers noted that GBH use has increased approximately 100-fold since the 1970s. Further, far from posing a limited hazard to vertebrates, as previously believed, two decades of evidence demonstrated that “several vertebrate pathways are likely targets of action, including hepatorenal damage, effects on nutrient balance through glyphosate chelating action and endocrine disruption.”²⁵

122. The paper attributes uncertainties in current assessments of glyphosate formulations to the fact that “[t]he full list of chemicals in most commercial GBHs is protected as ‘commercial business information,’ despite the universally accepted relevance of such information to scientists hoping to conduct an accurate risk assessment of these herbicide formulations.” Further, the researchers argue, “[t]he distinction in regulatory review and decision processes between ‘active’ and ‘inert’ ingredients has no toxicological justification, given increasing evidence that several so-called ‘inert’ adjuvants are toxic in their own right.”²⁶

123. Among various implications, the researchers conclude that “existing toxicological data and risk assessments are not sufficient to infer that GBHs, as currently used, are safe.” Further, “GBH-product formulations are more potent, or toxic, than glyphosate alone to a wide array of non-target organisms including mammals, aquatic insects, and fish.” Accordingly, “risk assessments of GBHs that are based on studies quantifying the impacts of glyphosate alone underestimate both toxicity and exposure, and thus risk.” The paper concludes that this “shortcoming has repeatedly led regulators to set inappropriately high exposure thresholds.”²⁷

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

124. The researchers also critique the current practice of regulators who largely rely on “unpublished, non-peer reviewed data generated by the registrants” but ignore “published research because it often uses standards and procedures to assess quality that are different from those codified in regulatory agency data requirements, which largely focus on avoiding fraud.” In the researchers’ view, “[s]cientists independent of the registrants should conduct regulatory tests of GBHs that include glyphosate alone, as well as GBH- product formulations.”²⁸

125. The researchers also call for greater inclusion of GBHs in government-led toxicology testing programs:

[A] fresh and independent examination of GBH toxicity should be undertaken, and . . . this re-examination be accompanied by systematic efforts by relevant agencies to monitor GBH levels in people and in the food supply, none of which are occurring today. The U.S. National Toxicology Program should prioritize a thorough toxicological assessment of the multiple pathways now identified as potentially vulnerable to GBHs.²⁹

126. The researchers suggest that, in order to fill the gap created by an absence of government funds to support research on GBHs, regulators could adopt a system through which manufacturers fund the registration process and the necessary testing:

“[W]e recommend that a system be put in place through which manufacturers of GBHs provide funds to the appropriate regulatory body as part of routine registration actions and fees. Such funds should then be transferred to appropriate government research institutes, or to an agency experienced in the award of competitive grants. In either case, funds would be made available to independent scientists to conduct the appropriate long-term (minimum 2 years) safety studies in recognized animal model systems. A thorough and modern assessment of GBH toxicity will encompass potential endocrine disruption, impacts on the gut microbiome, carcinogenicity, and multigenerational effects looking at reproductive capability and frequency of birth defects.”³⁰

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

RECENT WORLDWIDE BANS ON ROUNDUP®/GLYPHOSATE

127. Several countries around the world have instituted bans on the sale of Roundup® and other glyphosate-containing herbicides, both before and since IARC first announced its assessment for glyphosate in March 2015, and more countries undoubtedly will follow suit as the dangers of the use of Roundup® become more widely known. The Netherlands issued a ban on all glyphosate-based herbicides in April 2014, including Roundup®, which will take effect by the end of 2015. In issuing the ban, the Dutch Parliament member who introduced the successful legislation stated: “Agricultural pesticides in user-friendly packaging are sold in abundance to private persons. In garden centers, Roundup® is promoted as harmless, but unsuspecting customers have no idea what the risks of this product are. Especially children are sensitive to toxic substances and should therefore not be exposed to it.”³¹

128. The Brazilian Public Prosecutor in the Federal District requested that the Brazilian Justice Department suspend the use of glyphosate.³²

129. France banned the private sale of Roundup® and glyphosate following the IARC assessment for Glyphosate.³³

130. Bermuda banned both the private and commercial sale of glyphosates, including Roundup®. The Bermuda government explained its ban as follows: “Following a recent scientific study carried out by a leading cancer agency, the importation of weed spray ‘Roundup®’ has been

³¹ *Holland’s Parliament Bans Glyphosate Herbicides*, The Real Agenda, April 14, 2014, available at <http://real-agenda.com/hollands-parliament-bans-glyphosate-herbicides/>.

³² Christina Sarich, *Brazil’s Public Prosecutor Wants to Ban Monsanto’s Chemicals Following Recent Glyphosate-Cancer Link*, GLOBAL RESEARCH, May 14, 2015, available at <http://www.globalresearch.ca/brazils-public-prosecutor-wants-to-ban-monsantos-chemicals-following-recent-glyphosate-cancer-link/5449440>; see Ministério Público Federal, *MPF/DF reforça pedido para que glifosato seja banido do mercado nacional*, April, 14, 2015, available at http://noticias.pgr.mpf.mp.br/noticias/noticias-do-site/copy_of_meio-ambiente-e-patrimonio-cultural/mpf-df-reforca-pedido-para-que-glifosato-seja-banido-do-mercado-nacional.

³³ Zoe Schlanger, *France Bans Sales of Monsanto’s Roundup in Garden Centers, 3 Months After U.N. Calls it ‘Probable Carcinogen’*, NEWSWEEK, June 15, 2015, available at <http://www.newsweek.com/france-bans-sale-monsantos-roundup-garden-centers-after-un-names-it-probable-343311>.

suspended.”³⁴

131. The Sri Lankan government banned the private and commercial use of glyphosate, particularly out of concern that glyphosate has been linked to fatal kidney disease in agricultural workers.³⁵

132. The government of Colombia announced its ban on using Roundup[®] and glyphosate to destroy illegal plantations of coca, the raw ingredient for cocaine, because of the WHO’s finding that glyphosate is probably carcinogenic.³⁶

PROPOSITION 65 LISTING

133. On September 4, 2015, California’s Office of Environmental Health Hazard Assessment (“OEHHA”) published a notice of intent to include glyphosate on the state’s list of known carcinogens under Proposition 65.³⁷ California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (informally known as “Proposition 65”), requires the state to maintain, and at least once a year, revise and republish a list of chemicals “known to the State of California to cause cancer or reproductive toxicity.”³⁸ The OEHHA determined that glyphosate met the criteria for the listing mechanism under the Labor Code following IARC’s assessment of the chemical.³⁹

³⁴ *Health Minister: Importation of Roundup Weed Spray Suspended*, Today in Bermuda, May, 11 2015, available at <http://www.todayinbermuda.com/news/health/item/1471-health-minister-importation-of-roundup-weed-spray-suspended>.

³⁵ *Sri Lanka’s New President Puts Immediate Ban on Glyphosate Herbicides*, Sustainable Pulse, May 25, 2015, available at <http://sustainablepulse.com/2015/05/25/sri-lankas-new-president-puts-immediate-ban-on-glyphosate-herbicides/#.VeduYk3bKAw>.

³⁶ *Columbia to ban coca spraying herbicide glyphosate*, BBC, May 10, 2015, available at <http://www.bbc.com/news/world-latin-america-32677411>.

³⁷ Cal. Env’tl. Prot. Agency Office of Env’tl. Health Hazard Assessment, Notice of Intent to List Chemicals by the Labor Code Mechanism: Tetrachlorvinphos, Parathion, Malathion, Glyphosate (Sept. 4, 2015), http://oehha.ca.gov/prop65/CRNR_notices/admin_listing/intent_to_list/pdf_zip/090415NOIL_LCSet27.pdf.

³⁸ *Frequently Asked Questions*, STATE OF CAL. DEP’T OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL, <http://oag.ca.gov/prop65/faq> (last visited April 19, 2016).

³⁹ Cal. Env’tl. Prot. Agency Office of Env’tl. Health Hazard Assessment, Notice of Intent to List Chemicals by the Labor Code Mechanism: Tetrachlorvinphos, Parathion, Malathion, Glyphosate (Sept. 4, 2015), http://oehha.ca.gov/prop65/CRNR_notices/admin_listing/intent_to_list/pdf_zip/090415NOIL_LCSet27.pdf.

134. The listing process under the Labor Code is essentially automatic. The list of known carcinogens, at a minimum, must include substances identified by reference in Labor Code § 6382(b)(1). That section of the Labor Code identifies “[s]ubstances listed as human or animal carcinogens by the International Agency for Research on Cancer (IARC).” IARC’s classification of glyphosate as a Group 2A chemical (“probably carcinogenic to humans”) therefore triggered the listing.

135. A business that deploys a listed chemical in its products must provide “clear and reasonable warnings” to the public prior to exposure to the chemical. To be clear and reasonable, a warning must “(1) clearly communicate that the chemical is known to cause cancer, and/or birth defects or other reproductive harm; and (2) effectively reach the person before exposure.”⁴⁰ The law also prohibits the discharge of listed chemicals into drinking water.

136. Monsanto disputed the listing decision and, in January 2016, filed a lawsuit against OEHHA and the agency’s acting director, Lauren Zeise, in California state court, seeking declaratory and injunctive relief to prevent OEHHA from listing glyphosate.⁴¹

137. Monsanto alleged that OEHHA’s exclusive reliance on the IARC decision signified that “OEHHA effectively elevated the determination of an ad hoc committee of an unelected, foreign body, which answers to no United States official (let alone any California state official), over the conclusions of its own scientific experts.”⁴² Monsanto further alleged that the Labor Code listing mechanism presented various constitutional violations because it “effectively empowers an unelected, undemocratic, unaccountable, and foreign body to make

⁴⁰ *Frequently Asked Questions*, STATE OF CAL. DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL, *supra*.

⁴¹ Monsanto Company’s Verified Petition for Writ of Mandate and Complaint for Preliminary and Permanent Injunctive and Declaratory Relief, *Monsanto Co. v. Office of the Env’tl Health Hazard Assessment, et al.*, No. 16-CECG-00183 (Cal. Super. Ct.) *available at* <http://www.monsanto.com/files/documents/monvoehha.pdf>.

⁴² *Id.* at 2.

laws applicable in California.”⁴³ Among other things, Monsanto argued that Proposition 65’s requirement to provide a “clear and reasonable warning” to consumers that the chemical is a known carcinogen would damage its reputation and violate its First Amendment rights.⁴⁴

138. On March 28, 2017, OEHHA posted Notice on its website that glyphosate would be added to the list of chemicals known to the state of California to cause cancer for purposes of Proposition 65.

FDA ANNOUNCES TESTING OF GLYPHOSATE RESIDUE IN FOODS

139. On February 17, 2016, the U.S. Food and Drug Administration (“FDA”) announced that, for the first time in its history, the agency planned to start testing certain foods for glyphosate residues. FDA spokeswoman Lauren Sucher explained: “The agency is now considering assignments for Fiscal Year 2016 to measure glyphosate in soybeans, corn, milk, and eggs, among other potential foods.”⁴⁵

140. In 2014, the U.S. Government Accountability Office (GAO) had severely rebuked the FDA for its failures to both monitor for pesticide residue, including that of glyphosate, and to disclose the limitations of its monitoring and testing efforts to the public.⁴⁶ The GAO had cited numerous undisclosed deficiencies in the FDA’s process, specifically highlighting its omission of glyphosate testing.

141. Indeed, in the past, both the FDA and the U.S. Department of Agriculture (USDA) had routinely excluded glyphosate from their testing for the residues of hundreds of other pesticides, on the rationale that it was too expensive and unnecessary to protect public

⁴³ *Id.* at 3.

⁴⁴ *Id.*

⁴⁵ Carey Gillam, *FDA to Start Testing for Glyphosate in Food*, TIME, Feb. 17, 2016, available at <http://time.com/4227500/fda-glyphosate-testing/?xid=tcoshare>.

⁴⁶ U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-15-38, FDA AND USDA SHOULD STRENGTHEN PESTICIDE RESIDUE MONITORING PROGRAMS AND FURTHER DISCLOSE MONITORING LIMITATIONS (2014), available at <http://www.gao.gov/products/GAO-15-38>.

health. Ms. Sucher, the FDA spokeswoman, however, now states that “the agency has developed ‘streamlined methods’ for testing for the weed killer.”⁴⁷

142. The FDA’s move is significant as the agency possesses enforcement authority and can seek action if pesticide residues exceed enforcement guidelines.⁴⁸

PLAINTIFF’S EXPOSURE TO ROUNDUP®

143. Plaintiff Timothy McBride is 53 years old.

144. Plaintiff used Roundup to control weeds on his property in Winston-Salem, North Carolina, from approximately 2000 to 2022.

145. For many years, Plaintiff personally sprayed Roundup on a regular basis, specifically using Concentrate Roundup, Extended-Release Roundup and Pre-mixed/Ready-to-Use Roundup products. Plaintiff followed all safety and precautionary warnings during the course of use.

146. Plaintiff was subsequently diagnosed with Stage 2 Non-Hodgkin’s Lymphoma and Follicular Lymphoma on or about May 19, 2022, and suffered the effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of Roundup® and Defendant’s wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of Roundup®.

147. As a direct and proximate result of these injuries, Plaintiff has incurred and will incur medical expenses in the future and has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff has otherwise been damaged in a personal and pecuniary nature.

148. During the entire time that Plaintiff was exposed to Roundup®, he did not know that exposure to Roundup® was injurious to his health or the health of others.

⁴⁷ Gillam, *supra* note 46.

⁴⁸ *Id.*; Pesticide Q&A, U.S. FOOD AND DRUG ADMINISTRATION, <http://www.fda.gov/Food/FoodborneIllnessContaminants/Pesticides/ucm114958.htm> (last visited April 19, 2016).

EQUITABLE TOLLING OF APPLICABLE STATUTE OF LIMITATIONS

149. Plaintiff incorporates by reference all prior paragraphs of this Complaint as if fully set forth herein.

150. Plaintiff had no way of knowing about the risk of serious illness associated with the use of and/or exposure to Roundup® and glyphosate until well after IARC released its formal assessment of glyphosate in July 2015. This is the quintessential case for tolling.

151. Within the time period of any applicable statutes of limitations, Plaintiff could not have discovered, through the exercise of reasonable diligence, that exposure to Roundup® and glyphosate is injurious to human health.

152. Plaintiff did not discover and did not know of facts that would cause a reasonable person to suspect, the risks associated with the use of and/or exposure to Roundup® and glyphosate; nor would a reasonable and diligent investigation by him have disclosed that Roundup® and glyphosate would cause his illness.

153. For these reasons, all applicable statutes of limitations have been tolled by operation of the discovery rule with respect to Plaintiff's claims.

154. The running of any statute of limitations has been tolled by reason of Defendant's fraudulent concealment. Defendant, through its affirmative misrepresentations and omissions, actively concealed from Plaintiff the true risks associated with Roundup® and glyphosate. Indeed, even as of July 2016, Defendant continued to represent to the public that "*Scientists are in agreement that there is no evidence glyphosate causes cancer.*" (emphasis added)⁴⁹

155. As a result of Defendant's actions, Plaintiff was unaware, and could not reasonably know or have learned through reasonable diligence that Roundup® and/or glyphosate contact,

⁴⁹ Backgrounder - Glyphosate: No Evidence of Carcinogenicity. Updated November 2014. (downloaded October 9 2015).

exposed Plaintiff to the risks alleged herein and that those risks were the direct and proximate result of Defendant's acts and omissions.

156. Furthermore, Defendant is estopped from relying on any statute of limitations because of its fraudulent concealment of the true character, quality, and nature of Roundup[®]. Defendant was under a duty to disclose the true character, quality, and nature of Roundup[®] because this was non-public information over which Defendant had and continues to have exclusive control, and because Defendant knew that this information was not available to Plaintiff or to distributors of Roundup[®]. Therefore, Defendant is estopped from relying on any statute of limitations because of its intentional concealment of these facts.

157. Plaintiff had no knowledge that Defendant was engaged in the wrongdoing alleged herein. Because of the fraudulent acts of concealment of wrongdoing by Defendant, Plaintiff could not have reasonably discovered the wrongdoing at any time prior. Also, the economics of this fraud should be considered. Defendant had the ability to and did spend enormous amounts of money in furtherance of its purpose of marketing, promoting and/or distributing a profitable herbicide, notwithstanding the known or reasonably known risks. Plaintiff and medical professionals could not have afforded and could not have possibly conducted studies to determine the nature, extent, and identity of related health risks, and were forced to rely on only the Defendant's representations. Accordingly, Defendant is precluded by the discovery rule and/or the doctrine of fraudulent concealment from relying upon any statute of limitations.

CLAIM ONE

STRICT LIABILITY (DESIGN DEFECT)

158. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

159. Plaintiff brings this strict liability claim against Defendant for defective design.

160. At all times relevant to this litigation, Defendant engaged in the business of testing, developing, designing, manufacturing, marketing, selling, distributing, and promoting Roundup[®] products, which are defective and unreasonably dangerous to consumers and users and other persons coming into contact them, including Plaintiff, thereby placing Roundup[®] products into the stream of commerce. These actions were under the ultimate control and supervision of Defendant. At all times relevant to this litigation, Defendant designed, researched, developed, formulated, manufactured, produced, tested, assembled, labeled, advertised, promoted, marketed, sold, and distributed the Roundup[®] products used by Plaintiff, and/or to which Plaintiff was exposed, as described above.

161. At all times relevant to this litigation, Defendant's Roundup[®] products were manufactured, designed, and labeled in an unsafe, defective, and inherently dangerous manner that was dangerous for use by or exposure to the public, and, in particular, the Plaintiff.

162. At all times relevant to this litigation, Defendant's Roundup[®] products reached the intended consumers, handlers, and users or other persons coming into contact with these products in North Carolina and throughout the United States, including Plaintiff, without substantial change in their condition as designed, manufactured, sold, distributed, labeled, and marketed by Defendant.

163. Defendant's Roundup[®] products, as researched, tested, developed, designed, licensed, formulated, manufactured, packaged, labeled, distributed, sold, and marketed by Defendant were defective in design and formulation in that when they left the hands of the Defendant's manufacturers and/or suppliers, they were unreasonably dangerous and dangerous to an extent beyond that which an ordinary consumer would contemplate.

164. Defendant's Roundup[®] products, as researched, tested, developed, designed, licensed, formulated, manufactured, packaged, labeled, distributed, sold, and marketed by

Defendant were defective in design and formulation in that when they left the hands of Defendant's manufacturers and/or suppliers, the foreseeable risks associated with these products' reasonably foreseeable uses exceeded the alleged benefits associated with their design and formulation.

165. Therefore, at all times relevant to this litigation, Defendant's Roundup[®] products, as researched, tested, developed, designed, licensed, manufactured, packaged, labeled, distributed, sold and marketed by Defendant, were defective in design and formulation, in one or more of the following ways:

- a. When placed in the stream of commerce, Defendant's Roundup[®] products were defective in design and formulation, and, consequently, dangerous to an extent beyond that which an ordinary consumer would contemplate.
- b. When placed in the stream of commerce, Defendant's Roundup[®] products were unreasonably dangerous in that they were hazardous and posed a grave risk of cancer and other serious illnesses when used in a reasonably anticipated manner.
- c. When placed in the stream of commerce, Defendant's Roundup[®] products contained unreasonably dangerous design defects and were not reasonably safe when used in a reasonably anticipated or intended manner.
- d. Defendant did not sufficiently test, investigate, or study its Roundup[®] products and, specifically, the active ingredient glyphosate.
- e. Exposure to Roundup[®] and glyphosate-containing products presents a risk of harmful side effects that outweighs any potential utility stemming from the use of the herbicide.
- f. Defendant knew or should have known at the time of marketing its Roundup[®] products that exposure to Roundup[®] and specifically, its active ingredient

glyphosate, could result in cancer and other severe illnesses and injuries.

g. Defendant did not conduct adequate post-marketing surveillance of its Roundup[®] products.

h. Defendant could have employed safer alternative designs and formulations.

166. At all times relevant to this litigation, Plaintiff used and/or was exposed to the use of Defendant's Roundup[®] products in an intended or reasonably foreseeable manner without knowledge of their dangerous characteristics.

167. Plaintiff could not have reasonably discovered the defects and risks associated with Roundup[®] or glyphosate-containing products before or at the time of exposure.

168. The harm caused by Defendant's Roundup[®] products far outweighed their benefit, rendering Defendant's products dangerous to an extent beyond that which an ordinary consumer would contemplate. Defendant's Roundup[®] products were and are more dangerous than alternative products and Defendant could have designed its Roundup[®] products to make them less dangerous. Indeed, at the time that Defendant designed its Roundup[®] products, the state of the industry's scientific knowledge was such that a less risky design or formulation was attainable.

169. At the time Roundup[®] products left Defendant's control, there was a practical, technically feasible, and safer alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of Defendant's Roundup[®] herbicides.

170. Defendant's defective design of Roundup[®] amounts to willful, wanton, and/or reckless conduct by Defendant.

171. Therefore, as a result of the unreasonably dangerous condition of its Roundup[®] products, Defendant is strictly liable to Plaintiff.

172. The defects in Defendant's Roundup[®] products were substantial and contributing

factors in causing Plaintiff's grave injuries, and, but for Defendant's misconduct and omissions, Plaintiff would not have sustained her injuries.

173. As a direct and proximate result of Defendant placing its defective Roundup® products into the stream of commerce, Plaintiff suffered grave injuries, and endured pain and discomfort, as well as economic hardship, including considerable financial expenses for medical care and treatment.

174. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiff also demands a jury trial on the issues contained herein.

CLAIM TWO

STRICT LIABILITY (FAILURE TO WARN)

175. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

176. Plaintiff brings this strict liability claim against Defendant for failure to warn.

177. At all times relevant to this litigation, Defendant engaged in the business of testing, developing, designing, manufacturing, marketing, selling, distributing, and promoting Roundup® products, which are defective and unreasonably dangerous to consumers, including Plaintiff, because they do not contain adequate warnings or instructions concerning the dangerous characteristics of Roundup® and specifically, the active ingredient glyphosate. These actions were under the ultimate control and supervision of Defendant.

178. Defendant researched, developed, designed, tested, manufactured, inspected, labeled, distributed, marketed, promoted, sold, and otherwise released into the stream of commerce its Roundup® products, and in the course of same, directly advertised or marketed the products to

consumers and end users, including Plaintiff, and Defendant therefore had a duty to warn of the risks associated with the reasonably foreseeable uses (and misuses) of Roundup[®] and glyphosate-containing products.

179. At all times relevant to this litigation, Defendant had a duty to properly test, develop, design, manufacture, inspect, package, label, market, promote, sell, distribute, maintain supply, provide proper warnings, and take such steps as necessary to ensure that its Roundup[®] products did not cause users and consumers to suffer from unreasonable and dangerous risks. Defendant had a continuing duty to warn Plaintiff of the dangers associated with Roundup[®] use and exposure. Defendant, as manufacturer, seller, or distributor of chemical herbicides, is held to the knowledge of an expert in the field.

180. At the time of manufacture, Defendant could have provided warnings or instructions regarding the full and complete risks of Roundup[®] and glyphosate-containing products because it knew or should have known of the unreasonable risks of harm associated with the use of and/or exposure to these products.

181. At all times relevant to this litigation, Defendant failed to investigate, study, test, or promote the safety or to minimize the dangers to users and consumers of its Roundup[®] products and to those who would foreseeably use or be harmed by Defendant's herbicides, including Plaintiff.

182. Despite the fact that Defendant knew or should have known that Roundup[®] products posed a grave risk of harm, it failed to warn of the dangerous risks associated with their use and exposure. The dangerous propensities of its products and the carcinogenic characteristics of glyphosate, as described above, were known to Defendant, or scientifically knowable to Defendant through appropriate research and testing by known methods, at the time it distributed, supplied, or sold the product, and not known to end users and consumers, such as Plaintiff.

183. Defendant knew or should have known that its Roundup® and glyphosate-containing products created significant risks of serious bodily harm to consumers, as alleged herein, and Defendant failed to adequately warn consumers and reasonably foreseeable users of the risks of exposure to these products. Defendant has wrongfully concealed information concerning the dangerous nature of Roundup® and its active ingredient glyphosate, and further made false and/or misleading statements concerning the safety of Roundup® and glyphosate.

184. At all times relevant to this litigation, Defendant's Roundup® products reached the intended consumers, handlers, and users or other persons coming into contact with these products throughout the United States, including Plaintiff, without substantial change in their condition as designed, manufactured, sold, distributed, labeled, and marketed by Defendant.

185. At all times relevant to this litigation, Plaintiff used and/or was exposed to the use of Defendant's Roundup® products in their intended or reasonably foreseeable manner without knowledge of their dangerous characteristics.

186. Plaintiff could not have reasonably discovered the defects and risks associated with Roundup® or glyphosate-containing products before or at the time of Plaintiff's exposure. Plaintiff relied upon the skill, superior knowledge, and judgment of Defendant.

187. Defendant knew or should have known that the minimal warnings disseminated with its Roundup® products were inadequate, but it failed to communicate adequate information on the dangers and safe use/exposure and failed to communicate warnings and instructions that were appropriate and adequate to render the products safe for their ordinary, intended, and reasonably foreseeable uses, including agricultural and horticultural applications.

188. The information that Defendant did provide or communicate failed to contain relevant warnings, hazards, and precautions that would have enabled agricultural workers, horticultural workers and/or at-home users such as Plaintiff to utilize the products safely and with

adequate protection. Instead, Defendant disseminated information that was inaccurate, false, and misleading and which failed to communicate accurately or adequately the comparative severity, duration, and extent of the risk of injuries associated with use of and/or exposure to Roundup® and glyphosate; continued to aggressively promote the efficacy of its products, even after it knew or should have known of the unreasonable risks from use or exposure; and concealed, downplayed, or otherwise suppressed, through aggressive marketing and promotion, any information or research about the risks and dangers of exposure to Roundup® and glyphosate.

189. To this day, Defendant has failed to adequately and accurately warn of the true risks of Plaintiff's injuries associated with the use of and exposure to Roundup® and its active ingredient glyphosate, a probable carcinogen.

190. As a result of their inadequate warnings, Defendant's Roundup® products were defective and unreasonably dangerous when they left the possession and/or control of Defendant, were distributed by Defendant, and used by Plaintiff.

191. Defendant is liable to Plaintiff for injuries caused by its failure, as described above, to provide adequate warnings or other clinically relevant information and data regarding the appropriate use of its Roundup® products and the risks associated with the use of or exposure to Roundup® and glyphosate.

192. The defects in Defendant's Roundup® products were substantial and contributing factors in causing Plaintiff's injuries, and, but for Defendant's misconduct and omissions, Plaintiff would not have sustained his injuries.

193. Had Defendant provided adequate warnings and instructions and properly disclosed and disseminated the risks associated with its Roundup® products, Plaintiff could have avoided the risk of developing injuries as alleged herein.

194. As a direct and proximate result of Defendant placing its defective Roundup®

products into the stream of commerce, Plaintiff suffered severe injuries, and endured physical pain and discomfort, as well as economic hardship, including considerable financial expenses for medical care and treatment.

195. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiff also demands a jury trial on the issues contained herein.

CLAIM THREE

NEGLIGENCE

196. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

197. Defendant, directly or indirectly, caused Roundup® products to be sold, distributed, packaged, labeled, marketed, promoted, and/or used by Plaintiff.

198. At all times relevant to this litigation, Defendant had a duty to exercise reasonable care in the design, research, manufacture, marketing, advertisement, supply, promotion, packaging, sale, and distribution of its Roundup® products, including the duty to take all reasonable steps necessary to manufacture, promote, and/or sell a product that was not unreasonably dangerous to consumers, users, and other persons coming into contact with the product.

199. At all times relevant to this litigation, Defendant had a duty to exercise reasonable care in the marketing, advertisement, and sale of its Roundup® products. Defendant's duty of care owed to consumers and the general public included providing accurate, true, and correct information concerning the risks of using Roundup® and appropriate, complete, and accurate warnings concerning the potential adverse effects of exposure to Roundup® and, in particular, its active ingredient glyphosate.

200. At all times relevant to this litigation, Defendant knew or, in the exercise of reasonable care, should have known of the hazards and dangers of Roundup® and specifically, the carcinogenic properties of the chemical glyphosate.

201. Accordingly, at all times relevant to this litigation, Defendant knew or, in the exercise of reasonable care, should have known that use of or exposure to its Roundup® products could cause Plaintiff's injuries and thus created a dangerous and unreasonable risk of injury to the users of these products, including Plaintiff.

202. Defendant knew or, in the exercise of reasonable care, should have known that Roundup® is more toxic than glyphosate alone and that safety studies on Roundup®, Roundup's® adjuvants and "inert" ingredients, and/or the surfactant POEA were necessary to protect Plaintiff from Roundup®.

203. Defendant knew or, in the exercise of reasonable care, should have known that tests limited to Roundup®'s active ingredient glyphosate were insufficient to prove the safety of Roundup®.

204. Defendant also knew or, in the exercise of reasonable care, should have known that users and consumers of Roundup® were unaware of the risks and the magnitude of the risks associated with the use of and/or exposure to Roundup® and glyphosate- containing products.

205. As such, Defendant breached its duty of reasonable care and failed to exercise ordinary care in the design, research, development, manufacture, testing, marketing, supply, promotion, advertisement, packaging, sale, and distribution of its Roundup® products, in that Defendant manufactured and produced defective herbicides containing the chemical glyphosate, knew or had reason to know of the defects inherent in its products, knew or had reason to know that a user's or consumer's exposure to the products created a significant risk of harm and unreasonably dangerous side effects, and failed to prevent or adequately warn of these risks and

injuries.

206. Defendant failed to appropriately and adequately test Roundup[®], Roundup[®]'s adjuvants and “inert” ingredients, and/or the surfactant POEA to protect Plaintiff from Roundup[®].

207. Despite its ability and means to investigate, study, and test its products and to provide adequate warnings, Defendant has failed to do so. Indeed, Defendant has wrongfully concealed information and has further made false and/or misleading statements concerning the safety and/or exposure to Roundup[®] and glyphosate.

208. Defendant's negligence included:

- a. Manufacturing, producing, promoting, formulating, creating, developing, designing, selling, and/or distributing its Roundup[®] products without thorough and adequate pre- and post-market testing;
- b. Manufacturing, producing, promoting, formulating, creating, developing, designing, selling, and/or distributing Roundup[®] while negligently and/or intentionally concealing and failing to disclose the results of trials, tests, and studies of exposure to glyphosate, and, consequently, the risk of serious harm associated with human use of and exposure to Roundup[®];
- c. Failing to undertake sufficient studies and conduct necessary tests to determine whether or not Roundup[®] products and glyphosate-containing products were safe for their intended use in agriculture, horticulture, and at-home use;
- d. Failing to undertake sufficient studies and conduct necessary tests to determine the safety of “inert” ingredients and/or adjuvants contained within Roundup[®], and the propensity of these ingredients to render Roundup[®] toxic, increase the toxicity of Roundup[®], whether these ingredients are carcinogenic, magnify the carcinogenic properties of Roundup[®], and whether or not “inert” ingredients

and/or adjuvants were safe for use;

- e. Failing to use reasonable and prudent care in the design, research, manufacture, formulation, and development of Roundup[®] products so as to avoid the risk of serious harm associated with the prevalent use of Roundup[®]/glyphosate as an herbicide;
- f. Failing to design and manufacture Roundup[®] products so as to ensure they were at least as safe and effective as other herbicides on the market;
- g. Failing to provide adequate instructions, guidelines, and safety precautions to those persons who Defendant could reasonably foresee would use and/or be exposed to its Roundup[®] products;
- h. Failing to disclose to Plaintiff, users, consumers, and the general public that the use of and exposure to Roundup[®] presented severe risks of cancer and other grave illnesses;
- i. Failing to warn Plaintiff, users, consumers, and the general public that the product's risk of harm was unreasonable and that there were safer and effective alternative herbicides available to Plaintiff and other users or consumers;
- j. Systematically suppressing or downplaying contrary evidence about the risks, incidence, and prevalence of the side effects of Roundup[®] and glyphosate-containing products;
- k. Representing that its Roundup[®] products were safe for their intended use when, in fact, Defendant knew or should have known that the products were not safe for their intended use;
- l. Declining to make or propose any changes to Roundup[®] products' labeling or other promotional materials that would alert the consumers and the general

public of the risks of Roundup[®] and glyphosate;

- m. Advertising, marketing, and recommending the use of Roundup[®] products, while concealing and failing to disclose or warn of the dangers known by Defendant to be associated with or caused by the use of or exposure to Roundup[®] and glyphosate;
- n. Continuing to disseminate information to its consumers, which indicate or imply that Defendant's Roundup[®] products are not unsafe for use in the agricultural, horticultural industries, and/or home use; and
- o. Continuing the manufacture and sale of its products with the knowledge that the products were unreasonably unsafe and dangerous.

209. Defendant knew and/or should have known that it was foreseeable that consumers and/or users, such as Plaintiff, would suffer injuries as a result of Defendant's failure to exercise ordinary care in the manufacturing, marketing, labeling, distribution, and sale of Roundup[®].

210. Plaintiff did not know the nature and extent of the injuries that could result from the intended use of and/or exposure to Roundup[®] or its active ingredient glyphosate.

211. Defendant's negligence was the proximate cause of the injuries, harm, and economic losses that Plaintiff suffered, and will continue to suffer, as described herein.

212. Defendant's conduct, as described above, was reckless. Defendant regularly risks the lives of consumers and users of its products, including Plaintiff, with full knowledge of the dangers of its products. Defendant has made conscious decisions not to redesign, re-label, warn, or inform the unsuspecting public, including Plaintiff. Defendant's reckless conduct therefore warrants an award of punitive damages.

213. As a proximate result of Defendant's wrongful acts and omissions in placing its defective Roundup[®] products into the stream of commerce without adequate warnings of the

hazardous and carcinogenic nature of glyphosate, Plaintiff suffered severe and permanent physical and emotional injuries. Plaintiff endured pain and suffering and suffered economic losses (including significant expenses for medical care and treatment).

214. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiff also demands a jury trial on the issues contained herein.

CLAIM FOUR

BREACH OF EXPRESS WARRANTY

215. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

216. Roundup[®] which was designed, tested, manufactured, distributed, promoted and sold by Defendant, was expected to, and did, reach Plaintiff without any substantial change in its condition.

217. Defendant, through its advertising and promotional materials, expressly warranted that Roundup[®] was safe for its intended use and was not unreasonably dangerous for its intended purpose.

218. Defendant breached its express warranties in that Roundup[®] was not safe for its intended use in light of the unreasonably high risk of cancer associated with its use, including the risk of NHL.

219. Plaintiff reasonably relied to her detriment on Defendant's express warranties.

220. As a proximate result of Defendant's wrongful acts and omissions in placing its defective Roundup[®] products into the stream of commerce, Plaintiff suffered severe and permanent physical and emotional injuries. Plaintiff endured pain and suffering and suffered economic losses

(including significant expenses for medical care and treatment).

221. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiff also demands a jury trial on the issues contained herein.

CLAIM FIVE

BREACH OF IMPLIED WARRANTY

222. Plaintiff incorporates by reference each and every allegation set forth in the Preceding paragraphs as if fully stated herein.

223. Roundup[®] which was designed, tested, manufactured, distributed, promoted and sold by Defendant, was expected to, and did, reach Plaintiff without any substantial change in its condition.

224. At the time Defendant manufactured, marketed, sold, and distributed Roundup[®] Defendant knew of the use for which Roundup[®] was intended and impliedly warranted, through their advertising and promotional materials, that Roundup[®] was of merchantable quality, fitness and safe for the use for which it was intended.

225. Plaintiff reasonably relied upon the skill and judgment of Defendant as to whether Roundup[®] was of merchantable quality and safe for its intended use and upon Defendant's implied warranty as to such matters.

226. Contrary to the implied warranty, Defendant's product Roundup[®] was not of merchantable quality or safe for its intended use because it was unreasonably dangerous as described herein.

227. As a proximate result of Defendant's wrongful acts and omissions in placing its defective Roundup[®] products into the stream of commerce, Plaintiff suffered severe and permanent

physical and emotional injuries. Plaintiff endured pain and suffering and suffered economic losses (including significant expenses for medical care and treatment).

228. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiff also demands a jury trial on the issues contained herein.

CLAIM SIX

NEGLIGENT MISREPRESENTATION AND/OR FRAUD

229. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

230. Defendant is the manufacturer, designer, distributor, seller or supplier of Roundup[®] and, while engaged in the course of such business, made representations to Plaintiff regarding the character and/or quality of for guidance in her decision to select Roundup[®] for use.

231. Defendant had a duty to disclose material information about serious health effects to consumers such as Plaintiff. Defendant intentionally failed to disclose this information for the purpose of inducing consumers, including Plaintiff, to purchase Defendant's dangerous products.

232. Specifically, Defendant's advertisements regarding Roundup[®] made material misrepresentations to the effect that Roundup[®] was safe, which misrepresentations Defendant knew to be false, for the purpose of fraudulently inducing consumers, such as Plaintiff, to purchase said product. Defendant further misrepresented that its products were just as safe, and just as effective or more effective, than other weed control products on the market.

233. Defendant's representations regarding the character or quality of Roundup[®] were untrue. In addition, Defendant fraudulently suppressed material information regarding the safety of Roundup[®], including the dangers known by Defendant to be associated with or caused by the

use of or exposure to Roundup[®] and glyphosate.

234. Defendant had actual knowledge based on the results of trials, tests, and studies of exposure to glyphosate, of the risk of serious harm associated with human use of and exposure to Roundup[®].

235. Defendant negligently and/or intentionally misrepresented or omitted this information in its product labeling, promotions and advertisements and instead labeled, promoted and advertised its products as safe and effective in order to avoid losses and sustain profits in its sales to consumers.

236. In supplying the false information, Defendant failed to exercise reasonable care or competence in obtaining or communicating information to their intended recipients, including Plaintiff.

237. Plaintiff reasonably relied to her detriment upon Defendant's misrepresentations and/or omissions in its labeling, advertisements, and promotions concerning the serious risks posed by the product. Plaintiff reasonably relied upon Defendant's representations to her that Roundup[®] was safe for use and that Defendant's labeling, advertisements and promotions fully described all known risks of the product.

238. Defendant is estopped from relying on any statute of limitations defenses because Defendant actively concealed the defects from consumers, such as Plaintiff. Instead of revealing the defects, Defendant continued to represent its product as safe for its intended use.

239. As a direct and proximate result of Plaintiff's use of Roundup[®] as manufactured, designed, sold, supplied and introduced into the stream of commerce by Defendant. Plaintiff suffered personal injury and non-economic damages and will continue to suffer such harm and damages in the future.

CLAIM SEVEN

UNFAIR AND DECEPTIVE TRADE PRACTICES

240. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

241. By reason of its conduct as alleged herein, Defendant violated the provisions of Chapter 75 of the North Carolina General Statutes by inducing Plaintiff to use Roundup® through the use of false and/or misleading advertising, representations and statements.

242. By engaging in the conduct described herein, Defendant violated Chapter 75 of the North Carolina General Statutes by, among other things:

a) engaging in unfair or deceptive trade practices as defined in this statute by making false and misleading oral and written statements that had the capacity, tendency, or effect of deceiving or misleading consumers;

b) engaging in unfair or deceptive trade practices as defined in this statute by making representations that its products had an approval, characteristic, ingredient, use or benefit which they did not have, including but not limited to statements concerning the health consequences of the use of Roundup®;

c) engaging in unfair or deceptive trade practices as defined in this statute by failing to state material facts the omission of which deceived or tended to deceive, including but not limited to facts relating to the health consequences of the use of Roundup®;

d) engaging in unfair or deceptive trade practices as defined in this statute through deception, fraud, misrepresentation and knowing concealment, suppression and omission of material facts with the intent that consumers rely upon the same in connection with the use and continued use of Roundup®.

CLAIM EIGHT

PUNITIVE DAMAGES

243. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

244. The conduct of Defendant described above was fraudulent, malicious, and willful or wanton in that it demonstrated a conscious and intentional disregard of and indifference to the safety of others, including Plaintiff, which Defendant knew or should have known was likely to result in serious injury or death to members of the consuming public, including Plaintiff.

245. As a direct and proximate result of the intentional, willful, and wanton misconduct of Defendant, Plaintiff was caused to suffer NHL, as well as the damages alleged herein. Plaintiff is entitled to recover punitive damages as a result of Defendant's conduct.

JURY TRIAL DEMAND

246. Plaintiff demands a trial by jury on all the triable issues within this pleading.

PRAYER FOR RELIEF

247. WHEREFORE, Plaintiff requests that the Court enter judgment in their favor and against Monsanto, awarding as follows:

- A. Compensatory damages in an amount to be proven at trial;
- B. Treble and/or punitive damages;
- C. Treble damages and attorney fees pursuant to Chapter 75 of the North Carolina General Statutes [UDTP Act];
- D. Costs including reasonable attorneys' fees, court costs, and other litigation expenses; and

E. Any other relief the Court may deem just and proper.

Dated: January 6, 2025

Respectfully Submitted,

/s/ Caroline Emhardt, Esq.
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